

REMARKS

Claims 10 through 12 and 16 through 20 are pending in this application. Claims 10 and 16 have been amended and new claim 20 added. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present amendment should be apparent throughout the originally filed disclosure as, for example, original claims 13, 14 and 15. Applicants submit that the present amendment does not generate any new matter issue.

Claims 10 through 12, 15¹, 16 and 19 were rejected under 35 U.S.C. § 102 for lack of novelty as evidenced by Yu.

In the statement of the rejection the Examiner asserted that Yu disclosed a method corresponding to that claim, referring to Figs. 1 through 4 and the related text. This rejection is traversed.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc.* 329 F.3d 1358 (Fed. Cir. 2003); *Crown Operations International Ltd. v. Solutia Inc.*, 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002). There are significant differences between the claimed method and Yu's method that scotch the factual determination that Yu discloses a method identically corresponding to that claimed.

Specifically, independent claim 10 is directed to a method comprising a sequence of manipulative steps which include, *inter alia*, depositing an oxide liner by decoupled plasma deposition at a temperature no greater than about 400°C and then depositing a nitride liner thereon

¹ The Examiner apparently inadvertently listed claim 15 which is not pending.

also by decoupled plasma deposition at a temperature no greater than about 400°C. These manipulative steps of decoupled plasma deposition at a temperature no greater than about 400°C are neither disclosed nor suggested by Yu.

Moreover, the above argued differences between the claimed method and Yu's method are functionally significant. Indeed, advertizing, for example, to page 4 of the written description of the specification, lines 8 et. seq., it is disclosed that the use of decoupled plasma deposition at a low temperature prevents the diffusion of impurities out of the shallow source/drain extensions, thereby enabling a small junction depth to be maintained, and also minimizes substrate damage with an attendant improvement in transistor performance/reliability.

The above argued functionally significant differences in manipulative steps between the claimed method and Yu's method undermine the factual determination that Yu discloses a method identically corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986). Applicants, therefore, submit that the imposed rejection of claims 10 through 12, 15, 16 and 19 under 35 U.S.C. § 102 for lack of novelty as evidenced by Yu is not factually viable and, hence, solicit withdrawal thereof.

Claims 10 through 12 and 16 through 18 were rejected under 35 U.S.C. § 102 for lack of novelty as evidenced by Miles.

In the statement of the rejection the Examiner referred to Fig. 1 of Miles and the related text, asserting the disclosure of a method corresponding to that claimed. This rejection is traversed.

Again, the factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the

identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc. supra; Crown Operations International Ltd. v. Solutia Inc., supra.* There are significant differences between the claimed method and Miles's method that scotch the factual determination that Miles discloses a method identically corresponding to that claimed.

Specifically, as previously pointed, claim 10 is directed to a method comprising a sequence of manipulative steps which include depositing an oxide liner by decoupled plasma deposition at a temperature no greater than about 400°C, and then depositing a nitride liner thereon also by decoupled plasma deposition at a temperature no greater than about 400°C. No such method comprising decoupled plasma depositions of an oxide liner and a nitride liner thereon at a temperature no greater than about 400°C is disclosed or suggested by Miles.

Again, the above argued differences between the claimed method and the method disclosed by Miles are functionally significant in preventing diffusion of impurities out of the shallow source/drain extension thereby enabling a shallow junction depth to be maintained, and minimizing substrate damage with an attendant improvement in transistor performance/reliability (page 4 of the written description of the specification, first full paragraph).

The above argued functionally significant differences between the claimed method and Miles' method undermine the factual determination that Miles discloses a method identically corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson supra, Kloster Speedsteel AB v. Crucible Inc., supra.* Applicants, therefore, submit that the imposed rejection of claims 10 through 12 and 16 through 18 under 35 U.S.C. § 102 for lack of novelty as evidenced by Miles is not factually viable and, hence, solicit withdrawal thereof.

New claim 20.

New claim 20 is free of the applied prior art by virtue of its dependence upon claim 10, the patentability of which has been argued *supra*. Moreover, the separate patentability of claim 20 is strenuously advocated based upon the limitations expressed therein. Specifically, neither Yu nor Miles discloses or suggests a method comprising forming an oxide liner at a thickness of about 10 Å to about 50 Å and then forming a silicon nitride liner thereon at a thickness of about 50 Å to about 200 Å. Accordingly, claim 20 is free of the applied prior art.

Based upon the foregoing it should be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Arthur J. Stejner
Registration No. 26,106

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 AJS:MWE:ntb
Facsimile: 202.756.8087
Date: November 30, 2004

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